

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign the following contracts on behalf of the Arts and Culture Department for the FY2005 Young at Arts Series, to be held at the Chamizal National Memorial, as recommended by the Arts and Culture Department's Advisory Board and staff.

1. Missoula Children's Theater, Inc.; two performances on Saturday, January 15, 2005; cost of \$3,500.
2. Tears of Joy Theater; two performances on Saturday, January 22, 2005; cost of \$4,500.
3. Michael Cooper; two performances on Saturday, January 29, 2005; cost of \$4,100.

ADOPTED THIS 14th day of September, 2004.

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:



Alejandrina Drew
Director, Arts and Culture Dept.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

This Contract is made and entered into this 14th day of September, 2004, by and between the **CITY OF EL PASO**, Texas, a municipal corporation, hereinafter referred to as the “City,” and **MISSOULA CHILDREN’S THEATER, INC.**, hereinafter referred to as the “Contractor” or the “Artist.”

WHEREAS, the City desires to expose the residents of the City of El Paso to the different forms of art, including those presented by the artist; and

WHEREAS, the Contractor is interested in promoting the arts and providing an opportunity for art appreciation and exposure to the residents of the City of El Paso; and

WHEREAS, the Contractor has the authority to promote, represent and contract for the artist; and

WHEREAS, the City desires the Contractor to render such professional services in conjunction with activities conducted by the City’s Arts and Culture Department,

NOW, THEREFORE, the parties do hereby agree as follows:

1. The Contractor shall arrange for the Artist to perform the following services under the terms and conditions hereinafter stated:

- a. Serve as guest artists during the City of El Paso Arts and Culture Department’s Young at Art Series scheduled for Monday, January 10, 2005 through Saturday, January 15, 2005 at the Chamizal National Memorial. The Chamizal National Memorial is a National Park Service and is located at 800 San Marcial, El Paso, Texas. There will be two (2) one-hour performances of

“The Frog Prince” on Saturday, January 15, 2005, at 12:00 noon, and 2:00 p.m. Starting time can be delayed up to 10 to 15 minutes at the discretion of the City’s Arts and Culture Department.

- b. Contractor shall provide such properties, stage scenery, and special effects as deemed necessary for the performances.
- c. Contractor shall notify the City of El Paso Arts and Culture Department as to travel and lodging arrangements no later than December 1, 2004. Upon arrival in El Paso, Contractor shall notify the Arts and Culture Department’s Technical Coordinator at office phone (915) 541-4481.
- d. The parties agree that all activities taking place at the Chamizal National Memorial shall take place within an eight-and-one-half hour contiguous time period, to include a thirty (30) minute lunch period. Activities shall include, but not be limited to, load-in, technical preparation, rehearsals, performances and load-out. If such activities cannot be carried out in an eight-and-one-half hour time period, Contractor will notify the City’s Arts and Culture Department in order to schedule an extra day for these activities.
- e. The parties agree to comply to all rules and regulations of the Chamizal National Memorial.
- f. Contractor will not sell merchandise to the general public.
- g. Contractor shall conduct auditions and rehearsals for El Paso area school children during the week of January 10, 2005 to participate with Contractor in the January 15, 2005 performances.

2. In consideration for such services, the City shall pay the Contractor THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$3,500.00), flat, guarantee and inclusive (payment includes \$400 for lodging). Payments shall be rendered in accordance with the City's purchasing policies and procedures. Payment shall be authorized only after the performance has been completed.

3. The City shall provide the following equipment and technical staff for the performances:

- a. National Park Service and City of El Paso's Arts and Culture Department staff for load-in, set-up, strike, and load-out; and
- b. Professional sound and lighting staffed by National Park Service personnel.
No unauthorized person(s) shall be allowed backstage or in the sound/light area at any time;
- c. Refreshments for the Artist and technical staff backstage;
- d. Local transportation from hotel to theatre and back only;
- e. Front-of-house personnel, event management, box office functions and publicity;
- f. Two (2) dressing rooms, clean and adequately lighted, with mirrors, costume racks, tables, chairs, running water and toilet facilities;
- g. Ten (10) complimentary tickets to be held until 11:30 a.m., Saturday, January 15, 2005, after which time they will be released to the general public;
- h. Local information, including but not limited to, directions and accommodation information.

4. Contractor warrants that he is duly authorized to act and contract on behalf of the Artist.

5. It is expressly understood and agreed by and between the parties that Contractor is hired and engaged as an Independent Contractor and is not an officer, agent or employee of the City. Nothing herein shall be construed as creating the relationship of the employer and employee between the City and the Contractor. The City shall not be subject to any obligations or liabilities of Contractor incurred in the performance of this Contract.

6. The Contractor shall and does agree to indemnify and hold the City harmless for any and all claims, liabilities and obligations directly or indirectly arising out of, caused by, or resulting from, in whole or in part, (1) the performance of the Artist, or (2) any act, omission or breach on the part of the Contractor or Artist.

7. If the Contractor or Artist does not provide the services herein mentioned for reasons other than accidents, riots, strikes, epidemics, or acts of God, the Contractor shall be responsible to the City for any actual damages incurred by the City relating to this Contract, including, but not limited to, promotional expenses.

8. For the purpose of this Contract, **THE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR OBTAINING APPROPRIATE PERMISSION TO USE AND INCORPORATE COPYRIGHTED MATERIALS INTO THE PERFORMANCE.** In addition, the Contractor shall indemnify, defend, and hold the City harmless from any claims or causes of action which might arise from use of any material.

9. Artist is solely responsible for safeguarding and providing any security that Contractor deems necessary for their theatrical properties, costumes, instruments, equipment and any other personal property. Contractor acknowledges that the City shall

not be held liable for theft, loss, or damage to any of these items. Contractor acknowledges that City will not provide any insurance for the personal property of the Artist and is not responsible for any damage to Artist's property regardless of the cause.

10. Contractor specifically acknowledges that, in its capacity as an independent contractor, it has NOT been provided with worker's compensation insurance or other insurance coverage regularly provided by the City to its regular employees.

11. In the event that a party to this Contract fails to comply with any or all of the terms specified herein, written notice shall be sent to the non-compliant party stating the extent of non-compliance and providing ten (10) days within which to cure such non-compliance. Any failure to cure such non-compliance may result in termination of this Contract.

12. Contractor agrees to provide, at its own cost, the following advertising and promotional material to be forwarded to the City's Arts and Culture Department with the signed contract:

- a. Description of program, program notes, and biography;
- b. One (1) complete and up-to-date press packet, to include logos, motifs, and typefaces, if any;
- c. Eight (8) black and white glossy photographs (color preferred);
- d. One color digital image (if available);
- e. Two (4) color slides (if available);
- f. One (1) broadcast quality videotape (if available.)

If Contractor does not have all the above items of advertising material available for distribution, Contractor will notify the Director of the City's Arts and Culture Department in writing, and within thirty (30) days of the signing of this Contract, specifying the items which are

unavailable. Failure to notify the Director of the Arts and Culture Department indicates that all such material is available and will be supplied to the City's Arts and Culture Department.

13. Contractor shall furnish to the Technical Coordinator of the City's Arts and Culture Department, in duplicate and ninety (90) days prior to the performance or with the signed Contract, all technical information and requirements necessary to present the Artist. Technical information shall include, but not be limited to, stage diagram, sound and microphone requirements, light plot, required equipment, crew requirements, number of people traveling, luggage, technical and rehearsal schedule. The City, at its discretion, will provide those items listed which are necessary for the presentation of the Artist. Neither the City nor the National Park Service shall be held responsible for obtaining any items not listed in the attached technical rider. Contractor specifically understands that all scheduling and technical matters are subject to National Park Service staff approval.

14. Contractor shall be responsible for any damage to any facilities or equipment caused by the Contractor or Artist. In the event of any such damage, the Contractor shall pay any and all costs or repairs and or replacement. The City, through its Arts and Culture Department, will furnish the Contractor with a detailed written statement of any such damages and cost of repair, normal wear and tear excepted, within sixty (60) days of the time of the damage.

15. The Artist shall, at all times, retain sole artistic control over the performance and other residency activities.

16. The City agrees that the engagement shall not be a joint performance nor shall any assisting artists perform without the prior written consent of the Artist.

17. Only members of the Artist, authorized Artist's technical personnel and members of the City or Chamizal National Memorial Theater Staff shall be permitted backstage during the performance. Unauthorized persons shall not be admitted backstage during the performance due to the amount of space needed for safety precautions and for the Contractor's and Artist's protection.

18. The parties mutually agree that the technical rider, attached hereto as Exhibit A, is incorporated by reference and made a part of this Agreement for all purposes.

19. This Contract constitutes and expresses the entire agreement of the parties in reference to the services of the Contractor and Artist for the City and in reference to any of the matters provided for or discussed or mentioned in reference to the providing of such services, all promises, representations and understandings relative hereto being herein merged.

20. Any notices required under this Contract shall be sufficient if sent by certified mail, return receipt requested, to the parties as follows

CITY:	City of El Paso Attention: Mayor 2 Civic Center Plaza, 10 th Floor El Paso, TX 79901-1196
COPY TO:	Arts and Culture Department 2 Civic Center Plaza 6 th Floor El Paso, TX 79901-1196
CONTRACTOR:	Missoula Children's Theatre

or to such other addresses as the parties may indicate to each other in writing.

21. Regardless of any other provision in this Contract, this Contract does not become binding on either party until signed by the Contractor and the Mayor or the Mayor pro-tem of the City of El Paso.

22. Contractor understands and acknowledges that this Contract must be signed and returned to the City's Arts and Culture Department at 2 Civic Center Plaza, 6th Floor, El Paso, TX 79901-1196.

23. This Contract constitutes and expresses the entire agreement of the parties hereto in reference to the services of the Contract for the City and in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representations, and understandings relative hereto being herein merged.

24. The validity, construction and effect of this Contract shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

(Signatures Continue on the following page)

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

CONTRACTOR:

Signature: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

Alejandrina Drew
Director, Arts and Culture Department

EXHIBIT "A"
MISSOULA CHILDREN'S THEATER
TECHNICAL RIDER
JANUARY 15, 2005

TO BE PROVIDED BY CHAMIZAL NATIONAL MEMORIAL THEATER

STAGE: The stage 25' width by 20' depth and area must be clean and free of nails, splinters, and/or any other protrusions immediately prior to rehearsals and performances.

SOUND: Amplification, a house speaker system, and 1 tape recorder

PIANO: A Grand piano for rehearsals and performances.

CREW: Electrician
 1 Sound Operator
 1 Stagehand

SPACE REHEARSAL: A minimum of 2 indoor rehearsal spaces available throughout the week of January 10th through January 15th, 2005 from 4:00 p.m. - 8:30 p.m.

SCHEDULE	Monday, January 10, 2005	Auditions 3:30 p.m. - 6:00 p.m. (2 Hours)
	Monday - Friday, January 10 -14, 2005	Daily Rehearsals - 4:00 p.m. - 8:30 p.m.
	Saturday, January 15, 2005	Performances at 12:00 p.m. and 2:00 p.m.

TO BE PROVIDED BY ARTS & CULTURE DEPARTMENT

REFRESHMENTS: Bottled water, juices, sodas, and necessary supplies (i.e. cups, napkins, paper plates) will be available on the day of the Dress rehearsal & performances for the Missoula Directors only.

PIANO ACCOMPANIST: For rehearsals and all performances.

TUNING: Will be provided prior to performance.

MISCELLANEOUS: List of hotels will be provided.

TO BE PROVIDED BY CONTRACTOR/ARTIST

MISCELLANEOUS: Costumes, props, make-up and set will be provided.

LODGING: Agent and/or Tour Manager are responsible to make the necessary arrangements to make reservations and pay the fee for the lodging performers. Arts and Culture Department will provide a list of hotels that honor a discount.

TRANSPORTATION: Will provide there own transportation from January 10, through January 15, 2005.

PUBLICITY: Artist has agreed to provide photographs or a demonstration video to assist in the local promotion of Artist's presentation.

Artist hereby grants permission to the City of El Paso to use such materials in a video collage promoting the variety of arts programming supported by the Arts and Culture Department and the City of El Paso.

Yes: _____

No: _____

APPROVED AS TO CONTENT:



Director, Arts & Culture Dept.

APPROVED AS TO CONTENT:

By: Mally Eunt for MCT, Inc.

Title: Tour Marketing Associate

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

This Contract is made and entered into this 14th day of September, 2004, by and between the **CITY OF EL PASO**, Texas, a municipal corporation, hereinafter referred to as the “City,” and **TEARS OF JOY THEATER**, hereinafter referred to as the “Contractor” or the “Artist.”

WHEREAS, the City desires to expose the residents of the City of El Paso to the different forms of art, including those presented by the Artist; and

WHEREAS, the Contractor is interested in promoting the arts and providing an opportunity for art appreciation and exposure to the residents of the City of El Paso; and

WHEREAS, the Contractor has the authority to promote, represent and contract for the artist; and

WHEREAS, the City desires the Contractor to render such professional services in conjunction with activities conducted by the City’s Arts and Culture Department,

NOW, THEREFORE, the parties do hereby agree as follows:

1. The Contractor shall arrange for the Artist to perform the following services under the terms and conditions hereinafter stated:

- a. Serve as guest artists during the City of El Paso Arts and Culture Department’s Young at Art Series at the Chamizal National Memorial. The Chamizal National Memorial is a National Park Service and is located at 800 San Marcial, El Paso, Texas. There will be two (2) one-hour performances of “Coyote Tales” on Saturday, January 22, 2005, at 12:00 noon, and 2:00 p.m.

Starting time can be delayed up to 10 to 15 minutes at the discretion of the City's Arts and Culture Department.

- b. Contractor shall provide such properties, stage scenery, and special effects as deemed necessary for the performances.
- c. Contractor shall notify the City of El Paso Arts and Culture Department as to travel and lodging arrangements no later than December 1, 2004. Upon arrival in El Paso, Contractor shall notify the Arts and Culture Department's Technical Coordinator at office phone (915) 541-4481.
- d. The parties agree that all activities taking place at the Chamizal National Memorial shall take place within an eight-and-one-half hour contiguous time period, to include a thirty (30) minute lunch period. Activities shall include, but not be limited to, load-in, technical preparation, rehearsals, performances and load-out. If such activities cannot be carried out in an eight-and-one-half hour time period, Contractor will notify the City's Arts and Culture Department in order to schedule an extra day for these activities.
- e. The parties agree to comply to all rules and regulations of the Chamizal National Memorial.
- f. Contractor will not sell merchandise to the general public.

2. In consideration for such services, the City shall pay the Contractor FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$4,500.00), flat, guarantee and inclusive. Payments shall be rendered in accordance with the City's purchasing policies and procedures. Payment shall be authorized only after the performance has been completed.

3. The City shall provide the following equipment and technical staff for the performances:

a. National Park Service and City of El Paso's Arts and Culture Department staff for load-in, set-up, strike, and load-out; and

b. Professional sound and lighting staffed by National Park Service personnel.

No unauthorized person(s) shall be allowed backstage or in the sound/light area at any time;

c. Refreshments for the Artist and technical staff backstage;

d. Local transportation from hotel to theatre and back only;

e. Front-of-house personnel, event management, box office functions and publicity;

f. Two (2) dressing rooms, clean and adequately lighted, with mirrors, costume racks, tables, chairs, running water and toilet facilities;

g. Ten (10) complimentary tickets to be held until 11:30 a.m., Saturday, January 22, 2005, after which time they will be released to the general public;

h. Local information, including but not limited to, directions and accommodation information.

4. Contractor warrants that he is duly authorized to act and contract on behalf of the Artist.

5. It is expressly understood and agreed by and between the parties that Contractor is hired and engaged as an Independent Contract and is not an officer, agent or employee of the City. Nothing herein shall be construed as creating the relationship of the employer and

employee between the City and the Contractor. The City shall not be subject to any obligations or liabilities of Contractor incurred in the performance of this Contract.

6. The Contractor shall and does agree to indemnify and hold the City harmless for any and all claims, liabilities and obligations directly or indirectly arising out of, caused by, or resulting from, in whole or in part, (1) the performance of the Artist, or (2) any act, omission or breach on the part of the Contractor or Artist.

7. If the Contractor or Artist does not provide the services herein mentioned for reasons other than accidents, riots, strikes, epidemics, or acts of God, the Contractor shall be responsible to the City for any actual damages incurred by the City relating to this Contract, including, but not limited to, promotional expenses.

8. For the purpose of this Contract, **THE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR OBTAINING APPROPRIATE PERMISSION TO USE AND INCORPORATE COPYRIGHTED MATERIALS INTO THE PERFORMANCE.** In addition, the Contractor shall indemnify, defend, and hold the City harmless from any claims or causes of action which might arise from use of any material.

9. Artist is solely responsible for safeguarding and providing any security that Contractor deems necessary for their theatrical properties, costumes, instruments, equipment and any other personal property. Contractor acknowledges that the City shall not be held liable for theft, loss, or damage to any of these items. Contractor acknowledges that City will not provide any insurance for the personal property of the Artist and is not responsible for any damage to Artist's property regardless of the cause.

10. Contractor specifically acknowledges that, in its capacity as an independent contractor, it has NOT been provided with worker's compensation insurance or other insurance coverage regularly provided by the City to its regular employees.

11. In the event that a party to this Contract fails to comply with any or all of the terms specified herein, written notice shall be sent to the non-compliant party stating the extent of non-compliance and providing ten (10) days within which to cure such non-compliance. Any failure to cure such non-compliance may result in termination of this Contract.

12. Contractor agrees to provide, at its own cost, the following advertising and promotional material to be forwarded to the City's Arts and Culture Department with the signed contract:

- a. Description of program, program notes, and biography;
- b. One (1) complete and up-to-date press packet, to include logos, motifs, and typefaces, if any;
- c. Eight (8) black and white glossy photographs (color preferred);
- d. One color digital image (if available);
- e. Two (4) color slides (if available);
- f. One (1) broadcast quality videotape (if available.)

If Contractor does not have all the above items of advertising material available for distribution, Contractor will notify the Director of the City's Arts and Culture Department in writing, and within thirty (30) days of the signing of this Contract, specifying the items which are unavailable. Failure to notify the Director of the Arts and Culture Department indicates that all such material is available and will be supplied to the City's Arts and Culture Department.

13. Contractor shall furnish to the Technical Coordinator of the City's Arts and Culture Department, in duplicate and ninety (90) days prior to the performance or with the signed Contract, all technical information and requirements necessary to present the Artist. Technical information shall include, but not be limited to, stage diagram, sound and microphone requirements, light plot, required equipment, crew requirements, number of people traveling, luggage, technical and rehearsal schedule. The City, at its discretion, will provide those items listed which are necessary for the presentation of the Artist. Neither the City nor the National Park Service shall be held responsible for obtaining any items not listed in the attached technical rider. Contractor specifically understands that all scheduling and technical matters are subject to National Park Service staff approval.

14. Contractor shall be responsible for any damage to any facilities or equipment caused by the Contractor or Artist. In the event of any such damage, the Contractor shall pay any and all costs or repairs and or replacement. The City, through its Arts and Culture Department, will furnish the Contractor with a detailed written statement of any such damages and cost of repair, normal wear and tear excepted, within sixty (60) days of the time of the damage.

15. The Artist shall, at all times, retain sole artistic control over the performance and other residency activities.

16. The City agrees that the engagement shall not be a joint performance nor shall any assisting artists perform without the prior written consent of the Artist.

17. Only members of the Artist, authorized Artist's technical personnel and members of the City or Chamizal National Memorial Theater Staff shall be permitted backstage during the performance. Unauthorized persons shall not be admitted backstage during the performance due

to the amount of space needed for safety precautions and for the Contractor's and Artist's protection.

18. The parties mutually agree that the technical rider, attached hereto as Exhibit A, is incorporated by reference and made a part of this Agreement for all purposes.

19. This Contract constitutes and expresses the entire agreement of the parties in reference to the services of the Contractor and Artist for the City and in reference to any of the matters provided for or discussed or mentioned in reference to the providing of such services, all promises, representations and understandings relative hereto being herein merged.

20. Any notices required under this Contract shall be sufficient if sent by certified mail, return receipt requested, to the parties as follows

CITY: City of El Paso
Attention: Mayor
2 Civic Center Plaza,
10th Floor
El Paso, TX 79901-1196

COPY TO: Arts and Culture Department
2 Civic Center Plaza
6th Floor
El Paso, TX 79901-1196

CONTRACTOR: Tears of Joy Theater

or to such other addresses as the parties may indicate to each other in writing.

21. Regardless of any other provision in this Contract, this Contract does not become binding on either party until signed by the Contractor and the Mayor or the Mayor pro-tem of the City of El Paso.

22. Contractor understands and acknowledges that this Contract must be signed and returned to the City's Arts and Culture Department at 2 Civic Center Plaza, 6th Floor, El Paso, TX 79901-1196.

23. This Contract constitutes and expresses the entire agreement of the parties hereto in reference to the services of the Contract for the City and in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representations, and understandings relative hereto being herein merged.

24. The validity, construction and effect of this Contract shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

(Signatures Continue on the following page)

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

CONTRACTOR:

Signature: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

Alejandrina Drew
Director, Arts and Culture Department

EXHIBIT "A"
COYOTE TALES
TECHNICAL RIDER
JANUARY 22, 2005

TO BE PROVIDED BY CHAMIZAL NATIONAL MEMORIAL THEATER

STAGE: The Company requires stage 20' width by 20' depth. The area must be clean and free of nails, splinters, and/or any other protrusions immediately prior to rehearsals and performances. Stairways are available on stage left and right to get to the audience.

DRESSING ROOMS: 2 dressing rooms equipped with toilet and paper towels as well as one rack in each room for hanging costumes. Sufficient lighting, tables, chairs, and mirrors for artists. Dressing rooms will be locked for security purposes.

SOUND: A high quality 24 channel mixing board is available at the sound booth. Professional in house amplification is available. All necessary cables and direct boxes are included in the house sound system. A cassette tape player and/or CD player will be available.

LIGHTING: Light Control System – Colortron, Inc. Computer with 120 channels by 100 memories and 10 channel manual backup.

INTERCOM: Headset communication from backstage left and right (2 stations) dimmer board, sound console, and stage manager. This intercom will be set up and available for all performances.

CREW: Electrician
1 Sound Operator
1 Stagehand

SCHEDULE	Friday, January 21, 2005	Load in and set-up lights, Scenery, & rehearsal. 2:00 p.m. – 9:30 p.m.
	Saturday, January 22, 2005	2 performances (12:00 p.m. & 2:00 p.m.) and strike out at 3:30 p.m. 5:00 p.m.

TO BE PROVIDED BY ARTS & CULTURE DEPARTMENT

REFRESHMENTS: Bottled water, juices, sodas, sandwich, fruit, and necessary supplies (i.e. cups, napkins, paper plates) will be available on the day of the performances for 2 people.

CREW: 2 stagehands.

MISCELLANEOUS: List of hotels will be provided.

TO BE PROVIDED BY CONTRACTOR/ARTIST

TRANSPORTATION: Artist will travel in a standard size cargo van with all their necessary equipment for the production.

LODGING: Agent and/or Tour Manager are responsible to make the necessary arrangements to make reservations and pay the fee for the lodging performers. Arts and Culture Department will provide a list of hotels that honor a discount.

PUBLICITY: Artist has agreed to provide photographs or a demonstration video to assist in the local promotion of Artist's presentation.

Artist hereby grants permission to the City of El Paso to use such materials also in a video collage promoting the variety of arts programming supported by the Arts & Culture Department and the City of El Paso.

Yes: _____

No: _____

APPROVED AS TO CONTENT:



Director, Arts & Culture Dept.

APPROVED AS TO CONTENT:

By: Janet Bradley

Title: Managing Director

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

This Contract is made and entered into this 14th day of Septemberx, 2004, by and between the **CITY OF EL PASO**, Texas, a municipal corporation, hereinafter referred to as the “City,” and **MICHAEL COOPER**, hereinafter referred to as “Contractor.”

WHEREAS, the City desires to expose the residents of the City of El Paso to the different forms of art, including those presented by the Contractor; and

WHEREAS, the Contractor is interested in promoting the arts and providing an opportunity for art appreciation and exposure to the residents of the City of El Paso; and

WHEREAS, the City desires the Contractor to render such professional services in conjunction with activities conducted by the City’s Arts and Culture Department,

NOW, THEREFORE, the parties do hereby agree as follows:

1. The Contractor shall perform the following services under the terms and conditions hereinafter stated:

- a. Serve as guest artist during the City of El Paso Arts and Culture Department’s **Young at Art Series** at the Chamizal National Memorial. The Chamizal National Memorial is a National Park Service and is located at 800 San Marcial, El Paso, Texas. There will be two (2) one-hour performances of Michael Cooper’s *Masked Marvels & Wondertales* on Saturday, January 29, 2005, at 12:00 noon, and 2:00 p.m. Starting time can be delayed up to 10 to 15 minutes at the discretion of the City’s Arts and Culture Department.

- b. Contractor shall provide such properties, stage scenery, and special effects as deemed necessary for the performances.
- c. Contractor shall notify the City of El Paso Arts and Culture Department as to travel and lodging arrangements no later than December 31, 2004. Upon arrival in El Paso, Contractor shall notify the Arts and Culture Department's Technical Coordinator at office phone (915) 541-4481.
- d. The parties agree that all activities taking place at the Chamizal National Memorial shall take place within an eight-and-one-half hour contiguous time period, to include a thirty (30) minute lunch period. Activities shall include, but not be limited to, load-in, technical preparation, rehearsals, performances and load-out. If such activities cannot be carried out in an eight-and-one-half hour time period, Contractor will notify the City's Arts and Culture Department in order to schedule an extra day for these activities.
- e. The parties agree to comply to all rules and regulations of the Chamizal National Memorial.
- f. Contractor will not sell merchandise to the general public.

2. In consideration for such services, the City shall pay the Contractor FOUR THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$4,100.00), flat, guarantee and inclusive. Payments shall be rendered in accordance with the City's purchasing policies and procedures. Payment shall be authorized only after the performance has been completed.

3. The City shall provide the following equipment and technical staff for the performances:

a. National Park Service and City of El Paso's Arts and Culture Department staff for load-in, set-up, strike, and load-out; and

b. Professional sound and lighting staffed by National Park Service personnel.

No unauthorized person(s) shall be allowed backstage or in the sound/light area at any time;

c. Refreshments for the Contractor and technical staff backstage;

d. Local transportation from hotel to theatre and back only;

e. Front-of-house personnel, event management, box office functions and publicity;

f. Two (2) dressing rooms, clean and adequately lighted, with mirrors, costume racks, tables, chairs, running water and toilet facilities;

g. Ten (10) complimentary tickets to be held until 11:30 a.m. Saturday, January 29, 2005, after which time they will be released to the general public;

h. Local information, including but not limited to, directions and accommodation information.

4. Contractor warrants that he is duly authorized to act and contract on behalf of himself as the Artist.

5. It is expressly understood and agreed by and between the parties that Contractor is hired and engaged as an Independent Contract and is not an officer, agent or employee of the City. Nothing herein shall be construed as creating the relationship of the employer and employee between the City and the Contractor. The City shall not be subject to any obligations or liabilities of Contractor incurred in the performance of this Contract.

6. The Contractor shall and does agree to indemnify and hold the City harmless for any and all claims, liabilities and obligations directly or indirectly arising out of, caused by, or resulting from, in whole or in part, (1) the performance of the Contractor, or (2) any act, omission or breach on the part of the Contractor.

7. If the Contractor does not provide the services herein mentioned for reasons other than accidents, riots, strikes, epidemics, or acts of God, the Contractor shall be responsible to the City for any actual damages incurred by the City relating to this Contract, including, but not limited to, promotional expenses.

8. For the purpose of this Contract, **THE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR OBTAINING APPROPRIATE PERMISSION TO USE AND INCORPORATE COPYRIGHTED MATERIALS INTO THE PERFORMANCE.** In addition, the Contractor shall indemnify, defend, and hold the City harmless from any claims or causes of action which might arise from use of any material.

9. Contractor is solely responsible for safeguarding and providing any security that Contractor deems necessary for their theatrical properties, costumes, instruments, equipment and any other personal property. Contractor acknowledges that the City shall not be held liable for theft, loss, or damage to any of these items. Contractor acknowledges that City will not provide any insurance for the personal property of the Artist and is not responsible for any damage to Artist's property regardless of the cause.

10. Contractor specifically acknowledges that, in its capacity as an independent contractor, it has NOT been provided with worker's compensation insurance or other insurance coverage regularly provided by the City to its regular employees.

11. In the event that a party to this Contract fails to comply with any or all of the terms specified herein, written notice shall be sent to the non-compliant party stating the extent of non-compliance and providing ten (10) days within which to cure such non-compliance. Any failure to cure such non-compliance may result in termination of this Contract.

12. Contractor agrees to provide, at its own cost, the following advertising and promotional material to be forwarded to the City's Arts and Culture Department with the signed contract:

- a. Description of program and biography;
- b. One (1) complete and up-to-date press packet, to include logos, motifs, and typefaces, if any;
- c. Eight (8) black and white glossy photographs (color preferred);
- d. One color digital image (if available);
- e. Two (4) color slides (if available);
- f. One (1) broadcast quality videotape (if available.)

If Contractor does not have all the above items of advertising material available for distribution, Contractor will notify the Director of the City's Arts and Culture Department in writing, and within thirty (30) days of the signing of this Contract, specifying the items which are unavailable. Failure to notify the Director of the Arts and Culture Department indicates that all such material is available and will be supplied to the City's Arts and Culture Department.

13. Contractor shall furnish to the Technical Coordinator of the City's Arts and Culture Department, in duplicate and ninety (90) days prior to the performance or with the signed Contract, all technical information and requirements necessary for the performance. Technical information shall include, but not be limited to, stage diagram, sound and microphone

requirements, light plot, required equipment, crew requirements, number of people traveling, luggage, technical and rehearsal schedule. The City, at its discretion, will provide those items listed which are necessary for the presentation of the Contractor. Neither the City nor the National Park Service shall be held responsible for obtaining any items not listed in the attached technical rider. Contractor specifically understands that all scheduling and technical matters are subject to National Park Service staff approval.

14. Contractor shall be responsible for any damage to any facilities or equipment. In the event of any such damage, the Contractor shall pay any and all costs or repairs and or replacement. The City, through its Arts and Culture Department, will furnish the Contractor with a detailed written statement of any such damages and cost of repair, normal wear and tear excepted, within sixty (60) days of the time of the damage.

15. The Contractor shall, at all times, retain sole artistic control over the performance and other residency activities.

16. The City agrees that the engagement shall not be a joint performance nor shall any assisting artists perform without the prior written consent of the Contractor.

17. Only members of the Contractor, authorized Contractor's technical personnel, and members of the City or Chamizal National Memorial Theater Staff shall be permitted backstage during the performance. Unauthorized persons shall not be admitted backstage during the performance due to the amount of space needed for safety precautions and for the Contractor's and Artist's protection.

18. The parties mutually agree that the technical rider, attached hereto as Exhibit A, is incorporated by reference and made a part of this Agreement for all purposes.

19. This Contract constitutes and expresses the entire agreement of the parties in reference to the services of the Contractor and Artist for the City and in reference to any of the matters provided for or discussed or mentioned in reference to the providing of such services, all promises, representations and understandings relative hereto being herein merged.

20. Any notices required under this Contract shall be sufficient if sent by certified mail, return receipt requested, to the parties as follows

CITY: City of El Paso
Attention: Mayor
2 Civic Center Plaza,
10th Floor
El Paso, TX 79901-1196

COPY TO: Arts and Culture Department
2 Civic Center Plaza
6th Floor
El Paso, TX 79901-1196

CONTRACTOR: Michael Cooper

or to such other addresses as the parties may indicate to each other in writing.

21. Regardless of any other provision in this Contract, this Contract does not become binding on either party until signed by the Contractor and the Mayor or the Mayor pro-tem of the City of El Paso.

22. Contractor understands and acknowledges that this Contract must be signed and returned to the City's Arts and Culture Department at 2 Civic Center Plaza, 6th Floor, El Paso, TX 79901-1196.

23. This Contract constitutes and expresses the entire agreement of the parties hereto in reference to the services of the Contract for the City and in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representations, and understandings relative hereto being herein merged.

24. The validity, construction and effect of this Contract shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

(Signatures begin on the following page)

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

THE CITY OF EL PASO

Joe Wardy

Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

CONTRACTOR:

Signature: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

Alejandrina Drew
Director, Arts and Culture Department

EXHIBIT "A"
MICHAEL COOPER
TECHNICAL RIDER
JANUARY 29, 2005

TO BE PROVIDED BY CHAMIZAL NATIONAL MEMORIAL THEATER

STAGE: The Company requires stage 25' width by 15' depth. The area must be clean and free of nails, splinters, and/or any other protrusions immediately prior to rehearsals and performances. Stairways are available on stage left and right to get to the audience.

DRESSING ROOMS: 2 dressing rooms equipped with toilet and paper towels as well as one rack in each room for hanging costumes. Sufficient lighting, tables, chairs, and mirrors for artists. Will provide 1 iron and 1 ironing board. Dressing rooms will be locked for security purposes.

SOUND: A high quality 24 channel mixing board is available at the sound booth. Professional in house amplification is available. All necessary cables and direct boxes are included in the house sound system. A cassette tape player and/or CD player.

LIGHTING: Light Control System – Colortron, Inc. Computer with 120 channels by 100 memories and 10 channel manual backup. 1 spot light with operator.

INTERCOM: Headset communication from backstage left and right (2 stations) dimmer board, sound console, and stage manager. This intercom will be set up and available for all performances.

CREW: Electrician
1 Sound Operator
1 Stagehand

SCHEDULE	Friday, January 28, 2005	Load in and set-up lights, Scenery, & rehearsal. 2:00 p.m. – 9:30 p.m.
	Saturday, January 29, 2005	2 performances (12:00 p.m. & 2:00 p.m.) and strike out 3:30 p.m. 5:00 p.m.

TO BE PROVIDED BY ARTS & CULTURE DEPARTMENT

REFRESHMENTS: Bottled water, juices, sodas, sandwich, fruit, and necessary supplies (i.e. cups, napkins, paper plates) will be available on the day of the performances.

CREW: 2 stagehands to unload and load out.

TRANSPORTATION: Will provide transportation from the airport to hotel, from hotel to performance site, and back to airport.

MISCELLANEOUS: List of hotels will be provided.

TO BE PROVIDED BY CONTRACTOR/ARTIST

MISCELLANEOUS: Artist will bring his own wireless microphone and mini – disc player.

LODGING: Agent and/or Tour Manager are responsible to make the necessary arrangements to make reservations and pay the fee for the lodging performers. Arts and Culture Department will provide a list of hotels that honor a discount.

PUBLICITY: Artist has agreed to provide photographs or a demonstration video to assist in the local promotion of Artist's presentation.

Artist hereby grants permission to the City of El Paso to use such materials also in a video collage promoting the variety of arts programming supported by the Arts & Culture Department and the City of El Paso.

Yes: ✓

No: _____

APPROVED AS TO CONTENT:



Director, Arts & Culture Dept.

APPROVED AS TO CONTENT:

By: 

Title: Michael Cooper, Artist